IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8922 OF 2003

Mr. Saurabh Satish Dalal, minor
Through mother a natural guardian
Mrs. Rekha Satish Dalal, residing
at Vasudha Apartments,
301 Brahman Society, Murbad Road,
Kalyan (West), Dist. Thane. ....Petitioner.

V/s

1. State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai - 400 032.

2. Scheduled Tribe Scrutiny
Committee, through its Deputy
Director @ Member Secretary,
Konkan Division, Thane.

3. Competent Authority and
Director of Technical Education,
having its office at 3, Mahapalika
Marg, Mumbai - 400 001.

4. The Principal K.J. Somaiya
College of Engineering, Vidhyanagar,
Vidhyavihar, Mumbai - 400077 ...Respondents.

Mr. R.K. Mendadkar for the petitioner.
Mr. C.R. Sonawane, AGP for the respondents.

CORAM: V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATE : 12th July, 2006

ORAL JUDGMENT: (Per V.M. Kanade, J.)

1. By this petition, petitioner is challenging the order passed by the Scrutiny Committee. The Committee, by this order dated 31/10/2003, rejected

the claim of the petitioner.

2. Brief facts are that the petitioner had applied to the Committee vide his application dated 16/10/2002 for verification of his claim towards Halba Schedule Tribe for educational purpose. The petitioner had relied on the Certificate which was issued in favour of his father pursuant to the judgment and order passed by this Court confirming the claim of the petitioner's father. The Scrutiny Committee, however, did not accept the claim of the petitioner and rejected his application.

3. The only point that was argued by the learned Counsel appearing on behalf of the petitioner is that once the claim of the father of the petitioner has been confirmed by this Hon'ble Court in its judgment and order, it was not open for the Scrutiny Committee to take a different view. He has invited our attention to the observations made by the Scrutiny Committee in its order. There, the Scrutiny Committee having noticed the order passed by this Court in Writ Petition No. 4779 of 1999 in respect of the claim made by the petitioner's father, yet did not accept the claim of the petitioner.

4. In our view, the Scrutiny Committee has committed an error of law which is apparent on the face of the record. The claim of the petitioner's father having been accepted by this Court and the said order being not challenged, it was not open now for the Scrutiny Committee to take a different view than the view taken by this Court. There is no dispute that the petitioner in Writ Petition No. 4779 of 1999 was the petitioner's father and that his claim had been confirmed by this Court. This being the position, the rejection of the petitioner's claim on the basis of the record obtained in vigilance inquiry is patently illegal. The impugned order dated 31/10/2003 is set aside. The Committee is directed to issue Caste Validity Certificate in respect of the Caste Certificate dated 16/6/2001 issued by the Deputy Deputy Collector Thane. Writ Petition is allowed in terms of prayer clauses (a) and (b). Rule is made absolute accordingly. Under the facts and circumstances of the case, there shall be no order as to costs.

(V.G.PALSHIKAR, J.)

(V.M. KANADE, J.)